

**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Figure 3. This sheet, which includes Figure 3, replaces the original sheet including Figure 3.

Attachment: Replacement Sheet

**REMARKS**

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-19 are pending in this application. By this Amendment, claims 1 and 10 are amended; and claim 19 is added. No new matter is added. Claim 1 is the sole independent claim.

**Acknowledgements**

Applicant appreciates the Examiner's indication that the Information Disclosure Statement filed on December 1, 2009, has been considered.

Applicant also respectfully notes the present action indicates that the drawings have been accepted by the Examiner.

Applicant respectfully notes that the present action does **not** indicate that the claim to foreign priority under 35 U.S.C. §119 has been acknowledged or that certified copies of all priority documents have been received by the U.S.P.T.O. Applicant respectfully requests that the Examiner's next communication include an indication as to the claim to foreign priority under 35 U.S.C. §119 and an acknowledgement of receipt of the certified copies of all priority documents.

**Entry of After Final Amendment**

Applicant submits that this Amendment After Final Rejection at least places this application in better form for appeal. Applicant respectfully submits that this Amendment should only require a cursory review because the claim amendments presented herein do not add any new features and/or do not significantly alter the

scope of the claims. Consequently, the claim amendments should not require any further search by the Examiner. This Amendment is necessary as it clarifies and/or narrows the issues for consideration by the Board and was not earlier presented because Applicant believed that the prior response(s) placed this application in condition for allowance, for at least the reasons set forth in those response(s). Accordingly, entry of the present Amendment, as an earnest attempt to advance prosecution and/or to reduce the number of issues, is requested under 37 C.F.R. §1.116.

#### **Objection to the Drawings**

The drawings are objected to under 37 C.F.R. 1.84(p)(5) because reference character “28” is not found in the drawings.

Applicant has amended FIG. 3 to include reference character “28”, to obviate the objection. Withdrawal of the objection to the drawings is respectfully requested.

#### **Claim Rejections - 35 U.S.C. § 112**

##### ***I. First Paragraph***

Claim 18 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the specification fails to disclose “the supports are fixed relative to the flat plate.” Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant respectfully submits that the feature found in claim 18 is clearly and completely supported by the written description of the instant application as originally filed. In particular, Applicant respectfully submits that the feature of “*the supports are fixed relative to the flat plate*” of claim 18 is expressly and explicitly disclosed in the

original application. *See, e.g., page 5, lines 1-4 in the originally filed PCT application (or paragraph [0033] in the corresponding U.S. patent publication).*

Moreover, as described in the originally filed disclosure, Applicant respectfully submits that one of ordinary skill in the art would understand that the term “fixed” means that the supports (or brackets) are sufficiently “fixed” relative to the flat plate (via the profile) for supporting an underlying carrier. In other words, during nesting of the carriers, the supports are continuously placed (or “fixed”) into the flat plate, rather than being a “tilted” support as taught in Barefoot (USP 2,747,748). That is, although the supports of Barefoot are collapsible reducing the ‘volume’ and making it flat, and allow for ‘normal stacking’; it is submitted that the supports are positioned in a “tilted” manner. Accordingly, Applicant submits that the originally disclosure adequately describes and supports the feature of “the supports are fixed relative to the flat plate” of claim 18.

In view of the above, Applicant respectfully submits that the rejection of claim 18 is improper, and respectfully requests that it be reconsidered and withdrawn.

## ***II. Second Paragraph***

Claims 1-6 and 8-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses this rejection for the reasons discussed below.

In regard to claim 1, Applicant has amended claim 1 to provide proper antecedent basis. In particular, claim 1 has been amended to recite “the support surface is....” Moreover, it is submitted that support for the feature of “the support

surface is offset in the same direction relative to the recesses” may be found in the originally filed disclosure, *e.g.*, at page 2, lines 25-26 and page 6, lines 4-7. In addition, as shown in FIGS. 4-10, the feature of “offset” is shown to illustrate the relationship of the recesses and the support surfaces to allow stacking and nesting. Also, it is respectfully submitted that the “offset” may be in any direction in the plane of the plate (*e.g.*, *transversely or longitudinally*).

Further, in regard to claim 1, the feature “adjacent to the recesses, the carrier is provided with a support surface for supporting underlying carriers” is adequately and clearly (and provide literal support) described on page 2, lines 25-26 of the originally filed PCT disclosure. For instance, as shown in **FIG. 11**, the recess (U-shaped profile 45) may be adjacent to the support surface (L-shaped profile 42).

In regard to claim 8, Applicant submits “the support being connected to a profile” is adequately and clearly supported in **FIG. 11** and its corresponding description. For instance, as shown in **FIG. 11**, the L-shaped profile 42 may be formed on one side of the frame, and the U-shaped profile 45 having a recess thereunder may be fixed (*e.g.*, by means of welding) to the L-shaped profile 42, so that when the carriers are stacked on top of each other, and the U-shaped profile may be placed over the bracket 44.

In regard to claim 10, Applicant has amended claim 10 to recite “the locking elements are provided to lock with brackets.” Support for amended claim 10 may be found in page 12, lines 3-16 of the originally filed PCT disclosure. Specifically, when the carriers are stacked on top of each other, the locking elements 27 lock with the bracket 44 to provide lateral locking.

In view of the above, Applicant respectfully requests that the rejections under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

**Claim Rejections - 35 U.S.C. § 102**

***I. Barefoot***

Claims 1-6, 8-13, 17 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,747,748 to Barefoot ("the Barefoot reference"). Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant respectfully submits that the Barefoot reference fails to disclose, or even suggest, *inter alia*, "under each of the supports, a recess is arranged in the carrier for receiving a support of an underlying carrier," as recited in amended claim 1.

In the outstanding Final Office Action, the Examiner contends that the projections 24 correspond to a "recess." Specifically, the Examiner alleges that "a recess...is arranged in the carrier for receiving a support 13 of an underlying carrier."<sup>1</sup> Applicant respectfully disagrees because the projections 24 are not a recess (i.e., opening, depression, notch, cavity, etc.), but instead a 'curved surface' for supporting the supports (or for the supports to rest on). Moreover, it is submitted that the projections 24 of Barefoot do not 'receive' a support of an underlying carrier as taught by claim 1. In other words, the supports 13 are merely placed on (rests on) the projections 24 provided on the underside of the tray and formed inwardly from the side ends of the tray. Contrarily, the recess of claim 1 is arranged in the carrier for 'receiving' the support, which connotes that the support extends/protrudes into the

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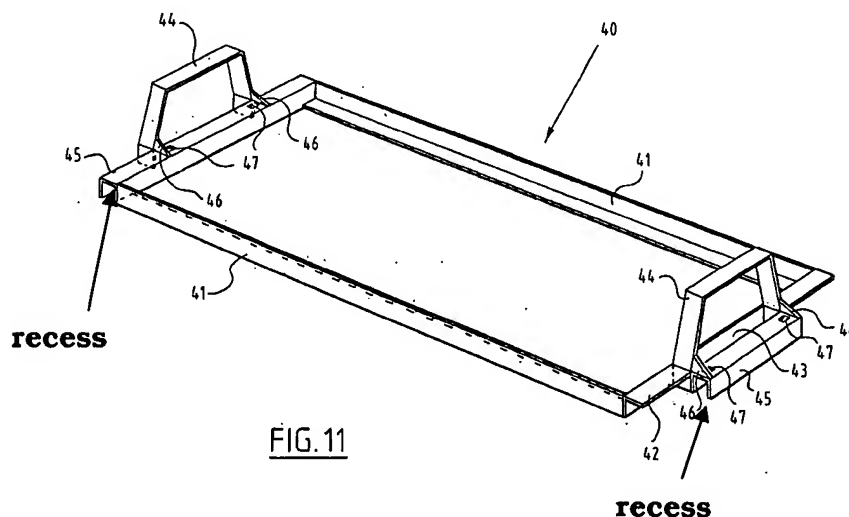
<sup>1</sup> See Final Office Action mailed April 21, 2010, page 5.

recess, and thus, allows the support of a lower carrier to extend above the plane of the higher carrier. The supports in Barefoot do not “extend/protrude” into any recesses.

Accordingly, the Barefoot reference fails to disclose or suggest, *inter alia*, “under each of the supports, a recess is arranged in the carrier for receiving a support of an underlying carrier,” as recited in amended claim 1.

Moreover, Applicant respectfully submits that the Barefoot reference also fails to disclose or suggest, “adjacently to the recesses, the carrier is provided with a support surface for supporting underlying carriers,” as recited in claim 1.

As shown in an example, non-limiting embodiment, FIG. 11 illustrates the recess (U-shaped profile 45) being adjacent to the support surface (L-shaped profile 42). See also page 12, lines 3-16 of the originally filed PCT disclosure. In this regard, FIG. 11 is reproduced below.



The Barefoot reference is completely silent of teaching or suggesting “a support surface adjacent to the recess.”

Furthermore, since the Barefoot reference fails to disclose or suggest the “support surface,” it further fails to disclose “the support surface is **offset** in the same direction relative to the recesses.” There is no support surface in Barefoot that is “**offset**” to allow stacking and **nesting** in any direction in the plane of the plate (e.g., transversely or longitudinally).

Moreover, as discussed above the term “nesting” may mean protruding above the surface of an above lying element. The “titled” supports of Barefoot merely decrease the volume of the carrier, making it flat, and allows for only ‘normal stacking’.

Accordingly, the Barefoot reference fails to disclose or suggest, *inter alia*, “adjacently to the recesses, the carrier is provided with a support surface for supporting underlying carriers; and the support surface is offset in the same direction relative to the recesses,” as recited in amended claim 1.

Since the Barefoot reference fails to disclose each and every element of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable. Claims 2-6, 8-13, 17, and 18 depend from claim 1, and therefore, allowable for the similar reasons discussed above with respect to claim 1.

Further, in regard to claim 18, Applicant submits that the feature of “the supports are fixed relative to the flat plate” is not taught in the Barefoot reference. Specifically, since the supports are “tilted” during the nesting of the carriers, it is not “fixed.” In other words, the “tilted” supports of Barefoot are collapsible to reduce the volume of the trays during nesting of the trays.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 1-6, 8-13, 17, and 18.



## **II. Huls**

Claims 1, 2, 8, 17, and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by German reference DE 1,658,736 to Huls ("the Huls reference"). Applicant respectfully traverses this rejection for the reasons discussed below.

As similarly discussed above, Applicant respectfully submits that the Huls reference also fails to disclose or suggest, "adjacently to the recesses, the carrier is provided with a support surface for supporting underlying carriers," as recited in claim 1.

The Huls reference is completely silent of teaching or suggesting "a support surface adjacent to the recess," as taught by claim 1. Specifically, there is no recess (U-shaped profile 45) being adjacent to the support surface (L-shaped profile 42). See FIG. 11.

Further, the Huls reference fails to disclose or suggest "the support surface is offset in the same direction relative to the recesses." There is no support surface in Huls that is "offset" to allow stacking and nesting in any direction in the plane of the plate.

Accordingly, the Huls reference fails to disclose or suggest, *inter alia*, "adjacently to the recesses, the carrier is provided with a support surface for supporting underlying carriers; and the support surface is offset in the same direction relative to the recesses," as recited in amended claim 1.

Since the Huls reference fails to disclose each and every element of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable.

Claims 2, 8, 17, and 18 depend from claim 1, and therefore, allowable for the similar reasons discussed above with respect to claim 1.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 1, 2, 8, 17, and 18.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 12-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barefoot in view of U.S. Patent No. 2,803,369 to Fleetwood ("the Fleetwood reference"). Applicant respectfully traverses this rejection for the reasons discussed below.

Claims 12-16 are believed to be allowable for at least the reasons set forth above regarding claim 1. The Fleetwood reference fails to provide the teachings noted above from the Barefoot reference. Since claims 12-16 are patentable at least by virtue of their dependency on independent claim 1, Applicant respectfully requests that the rejection of claims 12-16 under 35 U.S.C. § 103(a) be withdrawn.

### **CONCLUSION**

In view of the above remarks and amendments, Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. Further, the above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome the rejections. However, these remarks are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art.


Accordingly, Applicant does not contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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